

## § 1155.25

(d) The Board's procedures set forth in 49 CFR 1105.10 for implementation of environmental laws are controlling unless superseded by provisions in this Part.

(e) An applicant for a land-use-exemption permit must follow the Board's procedures at 49 CFR 1105.9 for compliance with the Coastal Zone Management Act, 16 U.S.C. 1451-65, if that act is applicable.

### § 1155.25 Transfer and termination of a land-use-exemption permit.

(a) A land-use-exemption permit may be transferred from a rail carrier to an acquiring rail carrier without the need for a new application for a land-use-exemption permit if the rail line associated with the solid waste rail transfer facility is transferred to another rail carrier or to an entity formed to become a rail carrier pursuant to authority granted by the Board under 49 U.S.C. 10901, 10902, or 11323. When seeking Board authority under 49 U.S.C. 10901, 10902, or 11323, the applicant(s) shall specifically advise the Board, the municipality, the State, and any relevant Federal or State regional planning entity of the jurisdiction in which the solid waste rail transfer facility is located, of the intended transfer. The FEDERAL REGISTER notice concerning the acquisition shall include a statement that a solid waste rail transfer facility with a Board-issued land-use-exemption permit is included in the acquisition.

(b) When a carrier plans to cease using a facility as a solid waste rail transfer facility, or when a facility is transferred to any party in any manner other than that described in paragraph (a) of this section, the entity that received the land-use-exemption permit must notify the Board, the municipality, the State, and any relevant Federal or State regional planning entity of the jurisdiction in which the solid waste rail transfer facility is located, in writing no later than 60 days prior to the proposed cessation or transfer. Upon receipt of that notice, the Board will publish notice in the FEDERAL REGISTER that the land-use-exemption permit will be terminated on the 60th day unless otherwise ordered by the Board.

## 49 CFR Ch. X (10-1-11 Edition)

### § 1155.26 Board determinations under 49 U.S.C. 10909.

(a) *Schedule.* (1) The schedule in paragraph (a)(2) of this section shall govern the process for Board consideration and decisions in land-use-exemption-permit application proceedings from the time the application is filed until the time of the Board's decision on the merits.

(2) At least 45 days prior to filing of application—Environmental report (and/or historic report, if applicable) filed and environmental process initiated pursuant to 49 CFR 1155.24.

(i) Day 0—Application filed.

(ii) Day 20—Due date for Notice of Application to be published in the FEDERAL REGISTER.

(iii) Day 45—Due date for initial comments.

(iv) 30 days after the Final EIS (or other final environmental documentation) is issued by OEA—Due date for final comments.

(v) 45 days after the Final EIS (or other final environmental documentation) is issued by OEA—Due date for replies to final comments.

(3) A decision on the merits will be due 90 days after a full record is developed.

(b) *Standard for review.* (1) The Board will issue a land-use-exemption permit only if it determines that the facility at the existing or proposed location would not pose an unreasonable risk to public health, safety, or the environment. In deciding whether a solid waste rail transfer facility that is or proposed to be constructed or operated by or on behalf of a rail carrier poses an unreasonable risk to public health, safety, or the environment, the Board shall weigh the particular facility's potential benefits to and the adverse impacts on public health, public safety, the environment, interstate commerce, and transportation of solid waste by rail.

(2) The Board will not grant a land-use-exemption permit for a solid waste rail transfer facility proposed to be located on land within any unit of or land affiliated with the National Park System, the National Wildlife Refuge System, the National Wilderness Preservation System, the National Trails System, the National Wild and Scenic